

REMARKS

At the time of the Third Office Action dated December 14, 2005, claims 1-14 and 16 were pending and rejected in this application.

CLAIMS 1-4 AND 10-16 ARE REJECTED UNDER 35 U.S.C. § 103 FOR OBVIOUSNESS BASED UPON OWENS ET AL., U.S. PATENT NO. 6,633,630 (HEREINAFTER OWENS), IN VIEW OF NARASIMHAN ET AL., U.S. PATENT NO. 6,073,165 (HEREINAFTER NARASIMHAN)

This rejection is respectfully traversed.

On page 12 of the Decision on Appeal dated May 17, 2009, the Honorable Board made the following finding:

The claimed "communication characteristic of an inter-broker communication link" is broad enough to encompass the characteristic of whether an inter-broker communication link is effective to communicate with a server. If the server is down, the link is *not* effective to communicate with that server. (emphasis added)

Although Applicants disagree with this characterization, the claims have been amended to clarify that the communication characteristic is of an inter-broker communication link effective to communicate messages between the message brokering system and one of said connected message brokering systems. Therefore, based upon the findings made by the Honorable Board as to the teachings of Narasimhan, these teachings are not consistent with the language of the claims.

Claims 2 and 3

Although the Honorable Board chose not to recognize the arguments presented by Applicant (i.e., "no such arguments were presented in the Briefs"), Applicant maintains that the combination of Owens and Narasimhan fail to teach the limitations at issue for the reasons already presented.

For the reasons stated above, Applicant respectfully submits that the imposed rejection of claims 1-4, 10-14, and 16 under 35 U.S.C. § 103 for obviousness based upon Owens in view of Narasimhan is not viable and, hence, solicits withdrawal thereof.

CLAIMS 5 AND 6 ARE REJECTED UNDER 35 U.S.C. § 103 FOR OBVIOUSNESS BASED UPON OWENS IN VIEW OF NARASIMHAN, HURST ET AL., U.S. PATENT NO. 6,131,121 (HEREINAFTER HURST), AND KHAN ET AL., U.S. PATENT PUBLICATION NO. 2002/0143951 (HEREINAFTER KHAN)

On pages 8 and 9 of the Office Action, the Examiner concluded that one having ordinary skill in the art would have been motivated to modify Owens in view of Narasimhan, Hurst, and Khan to arrive at the claimed invention. This rejection is respectfully traversed.

Claims 5 and 6 depend ultimately from independent claim 1, and Applicant incorporates herein the arguments previously advanced in traversing the imposed rejection of claim 1 under 35 U.S.C. § 103 for obviousness based upon Owens in view of Narasimhan. The additional references to Hurst and Khan do not cure the argued deficiencies of Owens and Narasimhan. Accordingly, the proposed combination of references would not yield the claimed invention. Applicant, therefore, respectfully submit that the imposed rejection of claims 5 and 6 under 35 U.S.C. § 103 for

obviousness based upon Owens in view of Narasimhan, Hurst, and Khan is not viable and, hence, solicit withdrawal thereof.

CLAIMS 7 ARE REJECTED UNDER 35 U.S.C. § 103 FOR OBVIOUSNESS BASED UPON OWENS IN VIEW OF NARASIMHAN, AND DELANEY ET AL., U.S. PATENT PUBLICATION NO. 2001/0027479 (HEREINAFTER DELANEY)

On pages 10-11 of the Office Action, the Examiner concluded that one having ordinary skill in the art would have been motivated to modify Owens in view of Narasimhan and Delaney to arrive at the claimed invention. This rejection is respectfully traversed.

Claim 7 depends ultimately from independent claim 1, and Applicant incorporates herein the arguments previously advanced in traversing the imposed rejection of claim 1 under 35 U.S.C. § 103 for obviousness based upon Owens in view of Narasimhan. The additional reference to Delaney does not cure the argued deficiencies of Owens and Narasimhan. Accordingly, the proposed combination of references would not yield the claimed invention. Applicant, therefore, respectfully submit that the imposed rejection of claim 7 under 35 U.S.C. § 103 for obviousness based upon Owens in view of Narasimhan and Delaney is not viable and, hence, solicit withdrawal thereof.

CLAIMS 8 AND 9 ARE REJECTED UNDER 35 U.S.C. § 103 FOR OBVIOUSNESS BASED UPON OWENS IN VIEW OF NARASIMHAN, DELANEY AND KHAN

On pages 11-13 of the Office Action, the Examiner concluded that one having ordinary skill in the art would have been motivated to modify Owens in view of Narasimhan, Delaney, and Khan to arrive at the claimed invention. This rejection is respectfully traversed.

Claims 8 and 9 depend ultimately from independent claim 1, and Applicant incorporates herein the arguments previously advanced in traversing the imposed rejection of claim 1 under 35 U.S.C. § 103 for obviousness based upon Owens in view of Narasimhan. The additional references to Delaney and Khan do not cure the argued deficiencies of Owens and Narasimhan. Accordingly, the proposed combination of references would not yield the claimed invention. Applicant, therefore, respectfully submit that the imposed rejection of claims 8 and 9 under 35 U.S.C. § 103 for obviousness based upon Owens in view of Narasimhan, Delaney, and Khan is not viable and, hence, solicit withdrawal thereof.

Applicant has made every effort to present claims which distinguish over the prior art, and it is believed that all claims are in condition for allowance. However, Applicant invites the Examiner to call the undersigned if it is believed that a telephonic interview would expedite the prosecution of the application to an allowance. Accordingly, and in view of the foregoing remarks, Applicant hereby respectfully requests reconsideration and prompt allowance of the pending claims.

Although Applicant believes that all claims are in condition for allowance, the Examiner is directed to the following statement found in M.P.E.P. § 706(II):

When an application discloses patentable subject matter and it is apparent from the claims and the applicant's arguments that the claims are intended to be directed to such patentable subject matter, but the claims in their present form cannot be allowed because of defects in form or omission of a limitation, the examiner should not stop with a bare objection or rejection of the claims. The examiner's action should be constructive in nature and when possible should offer a definite suggestion for correction. (emphasis added)

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 09-0461, and please credit any excess fees to such deposit account.

Date: August 16, 2009

Respectfully submitted,

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